

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT EUROPEAN UNION AND EUROPEAN
ATOMIC ENERGY COMMUNITY (IMMUNITIES
AND PRIVILEGES) ORDER 2021

Monday 12 July 2021

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Friday 16 July 2021

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

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| † Adams, Nigel (<i>Minister for Asia</i>) | Pursglove, Tom (<i>Corby</i>) (Con) |
| Caulfield, Maria (<i>Lewes</i>) (Con) | † Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab) |
| Duguid, David (<i>Parliamentary Under-Secretary of State for Scotland</i>) | Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| † Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Slaughter, Andy (<i>Hammersmith</i>) (Lab) |
| Jones, Darren (<i>Bristol North West</i>) (Lab) | Thomson, Richard (<i>Gordon</i>) (SNP) |
| † Kinnock, Stephen (<i>Aberavon</i>) (Lab) | Throup, Maggie (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Mak, Alan (<i>Lord Commissioner of Her Majesty's Treasury</i>) | Liam Laurence Smyth, <i>Committee Clerk</i> |
| † Mann, Scott (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † attended the Committee |
| † Morrissey, Joy (<i>Beaconsfield</i>) (Con) | |

First Delegated Legislation Committee

Monday 12 July 2021

[STEWART HOSIE *in the Chair*]

Draft European Union and European Atomic Energy Community (Immunities and Privileges) Order 2021

4.30 pm

The Chair: Before we begin, I remind Members to observe social distancing and to sit only in the places clearly marked. I also remind Members that Mr Speaker has stated that masks should still be worn in Committee, unless speaking. *Hansard* will be most grateful if Members could send their speaking notes by email to hansardnotes@parliament.uk.

The Minister for Asia (Nigel Adams): I beg to move,

That the Committee has considered the draft European Union and European Atomic Energy Community (Immunities and Privileges) Order 2021.

It is a pleasure to appear under your chairmanship, Mr Hosie.

The purpose of the draft order is to implement the agreement we have reached with the European Union that gives the EU delegation to the UK, and its staff, privileges and immunities. It is customary to grant such privileges and immunities to diplomatic missions and international organisations to enable them to function. The agreement is broadly in line with global practice, but includes important provisions to ensure that immunities and privileges do not impede the proper administration of justice.

Before I go through the draft order in further detail, please allow me to set out the policy context. As right hon. and hon. Members know, the United Kingdom left the EU last year on 31 January, after which the EU opened a delegation to the UK. That delegation replaced the European Commission representation and is responsible for representing the interests of the EU and co-ordinating among the 27 EU member states. This Government are clear that we want a relationship with the European Union based on friendly co-operation. The delegation plays an important role in that regard, including on the implementation of the trade and co-operation agreement.

Let me now turn to the details of the draft order. The order treats the EU delegation in broadly similar terms to those offered by other non-EU Governments globally. There are also important provisions to ensure that the immunities and privileges do not impede the proper administration of justice. The order categorises staff at the EU delegation as either “diplomatic agents” or “staff members”, and contains provisions regarding their family members.

EU staff who have been notified to the Foreign, Commonwealth and Development Office as diplomatic agents would be immune from civil, criminal and administrative jurisdiction in the United Kingdom. That includes all enforcement measures. The person of a

diplomatic agent would be inviolable in respect of their official acts. That means that the diplomatic agent cannot be arrested or detained for actions carried out as part of their duties. Their residence, baggage, official papers and documents would also be inviolable.

For staff members, the draft order will accord immunity from the criminal, civil and administrative jurisdiction of the UK only in respect of their official acts. Staff members also receive inviolability of their official papers and documents, and inviolability of the person, only in respect of their official acts.

Furthermore, the draft order provides certain fiscal exemptions for the delegation and its staff. Those include exemptions from direct taxes on assets, property, income and the delegation’s operations. There is also an exemption from paying council tax.

Finally, the draft order sets out the provisions to allow the UK to request that those immunities and privileges be waived in certain circumstances. For both diplomatic agents and staff members, there is a complete carve-out from immunity and inviolability in respect of any alleged road traffic accidents and offences.

To conclude, the draft order implements the agreement that the UK has reached with the EU regarding its delegation in London, in line with global practice. It enables the delegation to conduct its activities in the UK, while ensuring and upholding protections for the effective administration of justice. The European Union delegation plays an important role in the UK-EU relationship, supporting a partnership based on friendly co-operation. I welcome the opportunity to hear Members’ views on the order and I commend it to the Committee.

4.34 pm

Stephen Kinnock (Aberavon) (Lab): It is a pleasure to serve under your chairship, Mr Hosie. I appreciate the Minister’s introduction of this statutory instrument, which we are happy to support. Like him, I believe that outside the EU, we need to use opportunities to build a better relationship between the UK and other countries. Of course, the European Union is very much included in that consideration. We need to foster strong ties with our allies and partners across the channel, and we hope that the instrument will make a contribution to rebuilding some of the bridges that have, unfortunately, been burned over the last few years.

The legislation will give immunity to certain representatives and staff from the European Union and the European Atomic Energy Community in the UK following the recent co-operation agreement within that framework. It is a welcome step forward that that has been agreed and is being put in place, but the Government’s approach to the issue has been slow and reckless to the point of unnecessarily souring that relationship.

We recall reports at the beginning of this year that the Government were not rapidly expediting the process of granting diplomatic status to the European Union, and I think it is rather shameful that they took so long to ensure that our relationship with the EU was put back on a proper and formal footing. In the end, it came across as petty political point scoring, which soured a relationship that was already going through a very challenging process of negotiation. I do not think that helped to move our rapprochement with the European Union in the right direction. What is done is done—that

is water under the bridge—and there are lessons to be learned for the future on trying to build a positive and constructive relationship.

I have some technical questions. First, the instrument was laid before the House on 17 May, and the commencement article states that it will come into force “on the day after the day on which it is made, or the day on which the Agreement enters into force for the United Kingdom, whichever is the later.”

I assume that the agreement is in force, and therefore that the powers in the statutory instrument will commence forthwith, but will the Minister clarify the precise date on which the immunities will be brought in as a result of this secondary legislation?

Secondly, the explanatory memorandum states that Scotland will pass its own legislation owing to devolved competence, but when will the Scottish piece of this jigsaw puzzle be put in place?

Finally, the Government have confirmed that, as part of the agreement, information on the EU will be provided regularly. What sort of information will it be? How will that be shared and what will be contained within in? It would be useful to hear that from the Minister. The bottom line is that we welcome the statutory instrument and the Minister’s introduction of it.

4.39 pm

Nigel Adams: I am grateful to the hon. Gentleman for his support for the order. It is absolutely appropriate that we crack on and put it in place. As I set out in my opening speech, the EU delegation plays an important role in the relationship between the UK and the European Union. We are committed to relationships with the EU based on friendly co-operation, and that is exactly how we intend to proceed.

The order confers on the EU delegation the immunities and privileges that are necessary for the delegation to function effectively and conduct its activities in the UK.

As I said in my opening remarks, that is in line with global practice and, importantly, the order ensures and upholds protections for the effective administration of justice. We expect those who enjoy immunities and privileges in the UK to comply with our laws, however, and we take a firm line with those who do not. The obligation to respect UK law is set out in the establishment agreement and is binding as a matter of international law. Staff members do not have immunity beyond official acts, other than those persons notified to us as diplomatic agents.

The hon. Gentleman raised a question about Scotland. We understand that the Scottish Government intend to lay their order in August, with the expectation that it will be sent to the Privy Council in October. We have notified the European Union of that.

The hon. Gentleman also wanted to know when the order would come into force. The agreement will be signed by both the United Kingdom and the European Union on 21 July, and will come into force on the day after, so he was right in his assumptions.

The hon. Gentleman mentioned the delay in reaching the agreement. We have always been clear that the EU delegation and its staff would receive the immunities and privileges that they need to carry out their roles effectively. The negotiations involve a range of complex issues that take time. I am pleased that we have reached an agreement with the EU that gives the delegation its privileges and immunities, which, I reiterate, are in line with global practice. I also make it clear to the Committee that the order includes important provisions to ensure that immunities and privileges do not impede the proper administration of justice.

Question put and agreed to.

4.42 pm

Committee rose.

